

# HOUSING (SCOTLAND) BILL - MINISTERIAL SOUNDING BOARD

Minute of the first meeting of the Ministerial Sounding Board held on  
Tuesday 2 March 2010 at the Grosvenor Hilton Hotel, Edinburgh

## Present

Alex	Neil, MSP	Minister for Housing and Communities (chair)
Alan	Ferguson	Chartered Institute of Housing Scotland
Jennifer	Wallace	Consumer Focus Scotland
Cllr Harry	McGuigan	Convention of Scottish Local Authorities
Kennedy	Foster	Council of Mortgage Lenders
Martin	Hayward	Equality and Human Rights Commission
Jim	Harvey	Glasgow and West of Scotland Forum
Russell	Gunson	National Union of Students
Danny	Mullen	Regional Network of Registered Tenant Organisations
John	Blackwood	Scottish Association of Landlords
Hanna	McCulloch	Scottish Disability Equality Forum
Lorna	Paterson	Scottish Federation of Housing Associations
Rosemary	Brotchie	Shelter Scotland
Patricia	Stewart	Tenants First Housing Co-operative
Ilene	Campbell	Tenants Information Service
Lesley	Baird	Tenant Participation Advisory Service
Rena	Smith	Tenants Regulation Advisory Group
Ian	Ballantyne	Veterans Scotland
William	Fleming	Scottish Government
Linda	Leslie	Scottish Government
Ian	Spence	Scottish Government – minutes

## Apologies

Douglas Edwardson Association of Local Authority Chief Housing Officers

**In attendance:** Jon Harris, COSLA; Tessa Brown, Ged Millar, Colin Affleck, Jenny Goldsmith, and Joanna Shedden, the Scottish Government.

## 1 Welcome and opening remarks



able to use the provision to trigger an inquiry by the SHR and how would SHR's duty under section 45 interact with the role of the Scottish Public Services Ombudsman?

- Supported the Charter, and looked forward to extensive discussions on what customers could expect from it.

Cllr Harry McGuigan, said that the Convention of Scottish Local Authorities:

- Supported single shared assessments as the basis for regulation of local authorities, placed great weight on SHR and the Accounts Commission working closely where necessary, and hoped that the new regulatory regime would focus on evidence-based outputs, and avoid a 'tick box' and burdensome bureaucratic approach to regulation.
- Believed it was vital to share good practice in making progress towards the 2012 Homelessness target and that RSLs, by dealing with more "section 5 referrals" could play a greater role in meeting the target.
- Supported, as a sensible and welcome measure, the proposed amendment relating to pre-action enquiries for evictions.
- Supported the reforms to RTB, but believed in some circumstances that social landlords needed to have a right to sell some of their stock.

Councillor McGuigan noted subsequently that the members of the board would benefit from a better understanding of the SHR's current powers and how they were exercised. Mr Neil suggested that a presentation from Michael Cameron, the Acting Chief Executive of the SHR, should be part of the board's next meeting.

*Action Point* - William Fleming to invite Michael Cameron to attend the next meeting.

Kennedy Foster said that the Council of Mortgage Lenders:

- Supported the Bill in general, welcoming the creation of an independent SHR as being critical to maintaining the confidence of private lenders in the RSL sector, but was concerned about the prospect of cuts in SHR's resources and would watch closely for any effect these might have on the quality of SHR's performance.
- Supported more risk-based regulation, but believed that regulation had to focus on the outputs that landlords achieved rather than the methods of delivery.
- Continued to have concerns over the proposals for dealing with unauthorised tenancies and would pursue them in the working group on repossessions.

Martin Hayward said that the Equality and Human Rights Commission:

- Supported the Bill.
- Welcomed the duty on SHR to encourage equality of opportunity, but would welcome greater detail on how the duty would work in practice.
- Would welcome confirmation that SHR would be subject to the specific duties on public bodies under the Equality Bill being considered at Westminster and believed that RSLs should also be subject to the general duty under the Bill in respect of their public functions.
- Was concerned about the current lack of security in the rights of Gypsies/Travellers occupying local authority caravan sites. The Housing Bill presented an opportunity to rectify this and the EHRC would provide further detail in its written evidence to the Local Government and Communities Committee.

Mr Neil confirmed that the Scottish Government intended to add the SHR to the list of bodies that were to be subject to provisions of the Equality Bill.

Jim Harvey said that the Glasgow and West of Scotland Forum:

- Agreed that the SHR should be independent, but believed it should work in partnership with tenants and landlords.
- Had concerns about any reduction in resources for SHR – and wanted to be sure that the SHR avoided box ticking exercises and placed proper emphasis on the wider social and economic value that RSLs provide.
- Welcomed the idea of the Charter, was interested in it including outcomes related to neighbourhood standards and quality, and believed that it provided the right model for the Government and the Parliament, rather than the SHR, to set standards relating to RSLs' finances and governance.
- Had concerns over non-Scottish bodies being able to register as RSLs in Scotland and suggested looking at the approach in Wales that was based on defining a “Welsh body” for the purposes of registration.
- Believed that the current problems in Govanhill highlighted the need for improved regulation of the private rented sector.

*Action Point* – William Fleming to provide further information about the Welsh model and about cooperation both between regulatory bodies within Scotland and across the UK.

Russell Gunson, said that the National Union of Students:

- Welcomed the provisions to extend HMO licensing, improve landlord registration and enforce repairs and maintenance.
- Had concerns that linking HMO licensing and planning could lead to a black market of sub-standard accommodation.

Danny Mullen, said that the Regional Networks of Registered Tenant Organisations:

- Agreed with and supported the objectives of the Bill.
- Supported an independent SHR and were pleased that the SHR statutory objective recognised homeless people as a separate group whose interests needed to be safeguarded and promoted.
- Believed strongly that RSLs must involve tenants in self-assessment exercises and that HRA accounts should be displayed prominently in self-assessment reports by local authority landlords so that tenants could see where their rent money was being spent.
- Agreed that good performing landlords should have light touch regulation, but believed that SHR must have power to conduct spot-checks of all landlords to ensure that standards were maintained.
- While not asking for a guaranteed place on the board of the SHR, were very keen to see tenants among those appointed to the board.
- Were against the power, at section 16, enabling the SHR to charge fees as there was a risk that they would fall on tenants of poorly performing landlords and thus be an additional cost to be funded out of the rents paid to these landlords.
- Looked forward to close tenant involvement in developing the Charter.
- Believed that the reforms to RTB were in danger of adding further complications to an area that was already complicated and hard for the layman to understand and were against tenants who moved from existing social housing to new supply property and back again to retain RTB on their return.
- Agreed with 'local connection' provisions for Service personnel.
- Believed that changes to local authority powers on private sector disrepair would help tenants in cases where private owners were blocking communal repairs.

John Blackwood said that the Scottish Association of Landlords:

- Broadly accepted the provisions on landlord registration and HMOs.
- Was concerned at the possibilities of planning permission being required for all HMOs and of local authorities applying HMO quotas.

Hanna McCulloch said the Scottish Disability Equality Forum:

- Supported the main principles of the Bill, but believed that minority needs had to be mainstreamed.
- Had concerns about the discretionary nature of the Charter, believing that provision of accessible housing should be a core outcome of the Charter.
- Believed generally that the reforms to RTB could have a disproportionate effect on the ability of disabled people to own their homes and in particular that tenants with RTB who become disabled and have to move to a new supply property that is more suitable in their changed circumstances should have RTB in respect of the new property.

Lorna Paterson said that the Scottish Federation of Housing Associations:

- Was broadly supportive of the Bill.
- Suggested that 30 September 2002, the date the modernised RTB came into effect, was more appropriate as the date that the Bill should use in defining “new supply social housing”.
- Agreed that local authorities could designate particular house types, but more generally believed that pressured area designation should be the norm across the country, with an opt-out being possible where a local authority could demonstrate that a given area or type of housing in an area was not subject to any pressure on supply.
- Believed that all charitable organisations should be exempt from RTB no matter when their properties had been built.
- Were pleased that the term ‘social landlord’ remained under review with the possibility of it being changed by an amendment to the Bill later.
- Believed that there should be a tenant on the SHR Board.
- Had serious concerns about the ability of the SHR to undertake unannounced inquiries, visits or inspections and would be seeking to have the power limited so that it could be exercised only in a narrow and carefully defined range of circumstances.

Rosemary Brotchie said that Shelter Scotland:

- Supported the Bill, believing that it was important to safeguard supply of social housing, but noting that there was scope to simplify and strengthen the provisions on reforming RTB.
- Was pleased that the SHR would continue to monitor homelessness provision and welcomed the specific reference to homeless people in the SHR's objectives.
- Believed it would be important to discuss and explore how SHR would exercise its powers in practice.
- In terms of preventing homelessness, believed the Bill should be used to give tenants protection against eviction similar to that enjoyed by owner occupiers.
- Would be seeking amendments to make S 5 of the Housing (Scotland) Act 2001 (on homelessness referrals to RSLs) mandatory; introduce a statutory right to support for homeless households; and to make minor reforms to the Scottish Secure Tenancy.

Patricia Stewart said that Tenants First Housing Co-operative:

- Supported the Bill in general, but had reservations over how the Charter would work in practice.
- Wanted to see legislation on allocations being revisited to allow landlords discretion to allocate properties with a view to encouraging a greater mix of tenants in social housing.
- Suggested that consideration should be given to the idea of ending the link between a person and a particular property and moving to a more flexible system of providing accommodation that sought to meet housing needs as they changed during a person's housing career.

Mr Neil observed that the suggested change to tenure would mark a radical departure from current practice and invited Ms Stewart to develop the proposal more fully in a paper that could be considered by the board at a future meeting.

Rena Smith said that the Tenants Regulation Advisory Group:

- Did not believe that the RTB reforms went far enough.
- Wanted to know how it would be involved in the new regulatory regime and how tenants generally would be involved in the SHR's assessment of landlords and in the preparation of the Charter.

- Wanted to understand how tenants could trigger an inspection by the SHR of an unsatisfactory landlord.
- Opposed SHR having the power to charge fees as the cost of these would fall on tenants.

Ilene Campbell said that the Tenants Information Service:

- Supported the Bill and, from its discussions with tenants, believed that while they welcomed it, they wanted to be sure that the new SHR would have teeth.
- Supported the creation of an independent SHR that would regulate the housing services provided by both local authorities and RSLs.
- Believed that what was meant by 'significant failures' at section 45 of the Bill had to be defined clearly and that the section should be strengthened to give tenants more power to use the provision to trigger inspections.
- Believed that tenants remained wary of landlord self-assessment and that this concern might be addressed by a duty on landlords to involve tenants in assessment exercises.
- Looked forward to close involvement in developing the Charter from a blank sheet.
- Emphasised the need for adequate resources, support and training to enable tenants to participate effectively.

Lesley Baird said that the Tenant Participation Advisory Service:

- Welcomed the changes to RTB, but believed that they did not go far enough.
- Supported strongly the creation of an independent and tenant-focussed SHR.
- Hoped that there would be more than one tenant on the board of the new SHR.
- Believed that clarification was needed on the definition of 'significant failures' at section 45 of the Bill and on and the scope for tenants to trigger action through that section.
- Was delighted that the Government intended to start with a blank sheet in the exercise to develop the Charter and believed it was essential for tenants to be involved fully in the exercise from the outset.

Ian Ballantyne said that Veterans Scotland:

- Were delighted with the provision enabling servicemen and women to establish a local connection.
- Noted that 20,000 people leave the Armed Forces every year; only a small percentage of this number encountered housing and other resettlement difficulties; and it was important that arrangements were in place to help this vulnerable minority address these difficulties.

Mr Neil commented that there was a tendency to think of veterans as being in their 30s, 40s and beyond; however at present many were much younger. They were all deserving of support.

In tendering his apologies, Douglas Edwardson had recorded that the Association of Local Authority Chief Housing Officers:

- Particularly welcomed the changes to RTB, as a move in the right direction of ending RTB altogether.
- Was generally supportive of the proposals to modernise regulation; however, while some councils thought that the SHR should not be regulating council housing services, others believed inspection has brought significant benefits. ALACHO's official position reflected the latter view, but not all local authorities agreed with it.
- Welcomed the Bill's emphasis on the role of tenants and their engagement in regulation.
- Particularly welcomed the inclusion of homeless people and other service users, such as those on waiting lists, in the SHR's statutory objective.
- Looked forward to being actively engaged in the development of the Charter.
- While not directly relevant to the Bill, ALACHO welcomed the kick-start funding for council housing and stressed the need to ensure continuing adequate funding for new supply.

### **3 Next steps**

Mr Neil thanked the members for their contributions. He concluded from what had been said that there was agreement that the Government was moving in broadly the right direction with the Bill, but that there were points of detail that needed to be clarified or amended. He had been impressed by the wealth of good suggestions made during the course of the meeting. He was keen to pursue them in subsequent meetings, but reminded members that as a

Minister in a minority government he had to be sure, insofar as they required amendments to the Bill, that they would command sufficient support in the Parliament. He suggested that members and other stakeholders could help to build parliamentary support for particular proposals by lobbying MSPs.

In view of the topics highlighted by the members, Mr Neil suggested the following agenda items for the next three meetings:

1.           a) The new regulatory regime (which would include a presentation by the acting Chief Executive of the SHR).  
              b) Right To Buy
  
2.           a) Private Sector issues  
              b) Scottish Social Housing Charter
  
3.           a) Unauthorised tenancies  
              b) Other remaining business.

There being no other business, Mr Neil thanked the members for attending and closed the meeting.

### **Date of Next Meeting**

20 April 2010, 10.00 a.m., Victoria Quay, Edinburgh